REMARKS

This application has been reviewed in light of the Office Action dated July 21, 2008. Claims 1, 8 and 9 are presented for examination, of which Claim 1 is in independent form and has been amended to define still more clearly what Applicant regards as his invention. Claims 2-7 and 15-25 have been withdrawn from consideration. Favorable reconsideration is respectfully requested.

Claim 1, 8 and 9 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

The Office Action states that Claim 1 is drawn to a process involving the application of algorithms and computations of carrying out computerized identification and data categorization and, therefore, involves the application of a judicial exception. Applicant assumes that this judicial exception refers to "abstract ideas." Without conceding that the process of Claim 1 involves the application of a judicial exception, Applicant submits that even if that were the case, the process involves the transformation of a physical object and produces a useful, concrete, and tangible result.

As discussed in the specification, the present invention addresses the management of information about a medical examination device (MED). Examples of an MED include a DNA microarray and a device for inspection using a quartz crystal microbalance reaction (paragraph [0002]). These MEDs are typically strictly for wet laboratory use without involving any microprocessors or general computers. In other words, they need not be, and generally are not, computer-based systems.

Furthermore, these MEDs are typically handled by many users in different locations. In a sample life cycle of an MED, a vendor makes it, a distributor sells it, a health institution and/or a patient uses it, an inspection center determines the usage result, and the health

institution interprets the usage result. Any such user benefits from using the information he or she provides regarding the MED together with any information provided by other users in various ways at any time. It is therefore very useful to allow distributed users to remotely write information regarding MEDs into a central memory to achieve efficient sharing and utilization of all available information.

The process of Claim 1 has as a medium a MED, which gets used and whose usage record, among other things, is being maintained. Note that a MED gets transformed in its use – DNA probes hybridizing with targets on a DNA microarray, for example. Certainly, data representing various attributes of the MED, such as the usage up-to-date, current handler, and remaining lifetime, are also being updated or transformed over time.

In addition, the process of Claim 1 produces as a result, among other things, information about the MED that is efficiently shared and utilized by a plurality of distributed users. That is certainly a useful, concrete, and tangible, result. MPEP Section 2106 interprets a "tangible result" as follows:

> The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a 35 U.S.C. 101 judicial exception, in that the process claim must set forth a practical application of that judicial exception to *produce a real-world result*. Benson, 409 U.S. at 71-72, 175 USPQ at 676-77 (invention ineligible because had "no substantial practical application."). "[A]n application of a law of nature or mathematical formula to a ... process may well be deserving of patent protection." Diehr, 450 U.S. at 187, 209 USPQ at 8; see also Corning, 56 U.S. (15 How.) at 268, 14 L.Ed. 683 ("It is for the discovery or invention of some practical method or means of *producing a beneficial result or effect*, that a patent is granted . . ."). In other words, the opposite meaning of "tangible" is "abstract" emphasis added).

Apparently, information being shared and utilized is being physically perceived by users in one

way or another. Moreover, information about an MED that is efficiently shared and utilized by distributed users is certainly a real-world, beneficial result.

Accordingly, Claims 1, 8 and 9 are believed to be directed to statutory subject matter. Withdrawal of the Section 101 rejection is respectfully requested.

In the Office Action, Claims 1, 8 and 9 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patents 6,167,358 (Othmer et al.) and 5,772,585 (Lavin et al.), taken in combination.

Claim 1 recites, among other features, "An information processing method that utilizes a medical examination device as a medium... and a memory into which particular additional information about the medical examination device provided by some of a plurality of users is remotely writable by these users."

By virtue of this feature, a remote user can directly writes relevant information regarding MEDs into a central memory, without storing such information on the local computer or any computer that might be part of an MED. Similarly, the centrally managed information is available for viewing from any location at any time. Applicant submits that this feature is not believed to be disclosed or taught in *Othmer* and *Lavin*, considered separately or in any permissible combination.

Othmer teaches a system and method for monitoring a software application or a microprocessor on each of the client computers in a distributed network environment. They use a nub – a small, separate software program *executed on each client computer – to gather information about the operation of the software application or of the microprocessor* (*see* col. 4, lines 58-67) – when the software application runs ASSERT instructions, when the

microprocessor has crashed, etc. (*see* col. 5, lines 17-30). This is possible conceivably because the nub, the software application, and the microprocessor all belong to the same computational environment on the client computer, and the nub can therefore directly access the information generated by the software application or the microprocessor on the client computer. The method and the system supposedly can be applied to "other machines which include a microprocessor" in the same manner (*see* col. 4, lines 27-30). As can be seen, however, they certainly do not involve "a memory into which particular additional information... provided by some of a plurality of users is remotely writable by these users," as recited in Claim 1.

Lavin relates to a system and method for managing patient medical information in medical clinics (*see* col. 1, lines 16-23, for example). The system and the method provide a graphical user interface for accessing patient medical information to users, which conceivably may be anyone who works in a medical clinic and handles patient medical information. Apparently, those users do not include the patients visiting the medical clinic themselves. Since it does not refer to or suggest the management of information about a MED, *Lavin* apparently does not remedy the deficiencies of *Othmer* noted above.

As discussed earlier, in a sample life cycle of a MED, after a patient uses the MED, typically an inspection center determines the usage result and a health institution interprets the usage result. According to the present invention, the inspection results – typically the raw usage result and/or the interpretation – may all be written into the same memory. The patient is then given direct access to the inspection results stored in the memory – they can view the inspection results themselves without the help of others – but not to any other information about the MED (paragraphs [0044] and [0058]).

Claim 1 thus also recites "said sharing and utilizing step further comprises defining and maintaining a division between at least two classes of information stored in the memory, and permitting a patient to directly access only information in a first of these two classes..." The two classes refer to 1) inspection results and 2) usage and other information about the MED.

Since a patient is not a user of the *Lavin* system and doesn't have direct access to information contained in the system – the patient conceivably is informed of any diagnosis, which might have been stored into the system, by a doctor – *Lavin* does not disclose the feature recited above, either.

Accordingly, at least for the reasons noted above, Claim 1 is believed patentable over *Othmer* and *Lavin*, considered separately or in any permissible combination.

A review of the other art of record has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as references against independent Claim 1, and that claim is therefore believed patentable over the art of record.

The other claims under consideration in this application are each dependent from Claim 1, and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

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